

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

IN RE: MARCUS DOUGLAS EVANS,  
Debtor

CASE NO: 20-50834-KMS  
CHAPTER 13

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TODD AND RAE ANDREACCHIO, and CHRISTOPHER THOMPSON'S  
OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

TODD and RAE ANDREACCHO, *et ux.*, and CHRISTOPHER THOMPSON, administrator of the estate of Christian Andreacchio, (collectively referred to as "the Andreacchios"), creditors in this matter, object to confirmation of the plan filed by debtor Marcus Douglas Evans ("Marcus Evans" or "Mr. Evans"). In support thereof, the Andreacchios state:

1. The Andreacchios are former clients of Marcus Evans. Mr. Evans had been retained by the Andreacchios to file a wrongful death action against various third parties for the death of Christian Andreacchio. Marcus Evans negligently permitted the wrongful death claim to lapse as to at least one defendant.

2. On or about April 1, 2020, the Andreacchios filed a Complaint against Marcus D. Evans and Marcus D. Evans, PLLC in the Lauderdale County Circuit Court, Cause No. 2020-CV-0041 (C). As set forth by the attached Complaint (see Exhibit "A"), Marcus Evans mistakenly sued the wrong defendant. Next, he deceived the Andreacchios by faxing them a falsified copy of the complaint he had filed. Then, he served them a false invoice wherein he bills the Andreacchios for services that were never performed. Finally, without telling the Andreacchios the truth about his errors, he convinced them to dismiss the wrongful death claim. Although this dismissal, being

without prejudice, normally would have preserved their rights, it did not do so in this case because Mr. Evans had never amended the original complaint to reflect the true defendants. Thus, by causing the Andreacchios to dismiss the complaint, Mr. Evans destroyed the Andreacchios' only means of obtaining relief for the wrongful death of their son as to at least one defendant.

3. On May 11, 2020, Marcus Evans filed his chapter 13 bankruptcy petition. On May 27, 2020, he references the lawsuit in his statement of financial affairs, and he references Christopher Thompson as a creditor on his schedules. However, Mr. Evans failed to include Todd and Rae Andreacchio as creditors on his schedules. To the extent that he did reference their claim by and through Mr. Thompson, he lists the claim as being only \$100.00, which is well below the true value of the claim.

4. The Andreacchios object to the confirmation of the Chapter 13 plan as proposed by Marcus Evans. First, the Andreacchios believe that this does not meet the good faith requirements of 11 U.S.C. § 1325 (a)(3), particularly since he intends to pay only \$50,000.00 toward unsecured creditors over a five-period, even though he knows (or at least should know as an attorney) that legal malpractice claims based upon wrongful death (such as the Andreacchios have lodged) can produce damages in the hundreds of thousands of dollars. Furthermore, Mr. Evans does not list Marcus D. Evans, PLLC, as a co-debtor on the claim. Finally, as Cena Evans notes in her objection to the confirmation, the plan is unfeasible since Marcus Evans has abandoned his law office, since the building where he practiced is in foreclosure, and since he cannot generate sufficient revenue from legal work to pay his obligations..

5. Accordingly, Marcus Evans' plan should be rejected.

WHEREFORE, premises considered, TODD AND RAE ANDREACCHIO, et ux., and CHRISTOPHER THOMPSON, administrator of the estate of Christian Andreacchio respectfully object to confirmation of the Chapter 13 plan as proposed. Further, TODD AND RAE ANDREACCHIO, et ux., and CHRISTOPHER THOMPSON, request such other relief as the Court deems just and proper.

Respectfully submitted,

/s/ Cynthia H. Speetjens

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Dated: July 14, 2020

ATTORNEYS FOR TODD AND RAE  
ANDREACCHIO, et ux., AND CHRISTOPHER  
THOMPSON as the Administrator of the Estate  
of Christian Andreacchio.

Certificate of Service

I do hereby certify that on the date I served a copy of this OBJECTION TO CONFIRMATION by filing it with the clerk of court using the ECF system, which will send notification of such filing to all counsel of record, including the following:

Douglas M. Engell  
*Attorney for debtor*

David Rawlings  
*Chapter 13 Trustee*

Office of the United States Trustee  
USTPRegion05.J.A.ECF@usdoj.gov

This the 14th day of July 2020.

/s/ Cynthia H. Speetjens  
Cynthia H. Speetjens